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Attorneys for Plaintiffs  
 DENNIS MONTGOMERY, THE MONTGOMERY  
 FAMILY TRUST, OPSRING, LLC, and EDRA  
 BLIXSETH

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

DENNIS MONTGOMERY and the  
 MONTGOMERY FAMILY TRUST,

Plaintiffs,

vs.

ETREPPID TECHNOLOGIES, LLC, WARREN  
 TREPP, and the UNITED STATES  
 DEPARTMENT OF DEFENSE,

Defendants.

AND RELATED CASES.

) Case No. 3:06-CV-00056-PMP-VPC  
 ) BASE FILE

) (Consolidated with Case No. 3:06-CV-  
 ) 00145-PMP-VPC)

) **NOTICE OF ERRATA RE:**  
 ) **ERRONEOUS FILING OF**  
 ) **"DECLARATION OF DENNIS**  
 ) **MONTGOMERY PER MINUTE ORDER**  
 ) **OF FEBRUARY 21, 2008" AS**  
 ) **ATTACHMENT TO DOCUMENT 466**

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE of the following correction: "Declaration Of Dennis  
3 Montgomery Per Minute Order Of February 21, 2008" (docket #466-2) erroneously filed as an  
4 attachment to document 466 has been filed separately.

5 Dated: March 11, 2008

Respectfully submitted,

6 LINER YANKELEVITZ  
7 SUNSHINE & REGENSTREIF LLP

8 By: 

9 Deborah A. Klar  
10 Tuneen E. Chisolm  
11 Attorneys for Plaintiffs  
12 DENNIS MONTGOMERY and the  
13 MONTGOMERY FAMILY TRUST  
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12 **UNITED STATES DISTRICT COURT**

13 **DISTRICT OF NEVADA**

14 DENNIS MONTGOMERY and the  
 15 MONTGOMERY FAMILY TRUST,

16 Plaintiffs,

17 vs.

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 19 TREPP, and the UNITED STATES  
 DEPARTMENT OF DEFENSE,

20 Defendants.

21 AND RELATED CASES.  
 22

) Case No. 3:06-CV-00056-PMP-VPC  
 ) BASE FILE

) (Consolidated with Case No. 3:06-CV-  
 ) 00145-PMP-VPC)

) **DECLARATION OF DENNIS**  
 ) **MONTGOMERY PER MINUTE ORDER**  
 ) **OF FEBRUARY 21, 2008**

DECLARATION OF DENNIS MONTGOMERY

I, Dennis Montgomery, declare as follows:

1. I am currently a member of eTreppid Technologies, LLC ("eTreppid"), and have been since its inception in 1998 under the name Intrepid Technologies, LLC. I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify competently to such facts under oath.

2. I have diligently reviewed my files in a good faith effort to locate the original CD No. 1, which originally contributed to, and actually gave to, Intrepid Technologies, LLC in 1998, through The Montgomery Family Trust.

3. I have not been able to locate the original CD No. 1 or a copy of it, and to my knowledge, CD No. 1 did not exist in printed form.

4. My contributed assets under the Contribution Agreement are described in that document, which was prepared by Douglass Frye. My contribution was limited to software compression technology.

5. My contribution under the Contribution Agreement did not include software technology in the fields of pattern recognition, object tracking, or anomaly detection. That is one of the reasons why the Contribution Agreement expressly includes a provision that states that the Montgomery Family Trust was not contributing, and that Intrepid was not acquiring, any other tangible or intangible assets that were not specified as the Contributed Assets.

6. The software programs for software compression technology that were contained on CD No. 1, included executable files and related source code and a "Software Compression Engine Development Program."

7. It would be extremely burdensome, if not impossible, for me to re-create CD No. 1 for several reasons, including, but not limited to technical infeasibility, accessibility of files, time and expense. Hundreds of millions of files would have to be reorganized back to the point in time they were constructed. The data would have to be copied, and in some cases sent to private

1 forensic laboratories to help in the process of reloading data on older technology because the device  
2 that was originally used to record on is either obsolete, missing, or in my case seized from me.

3 8. The volume of my work over the last 35 years is enormous. There are hundreds of  
4 millions of files that were kept and maintained, in various media forms, before the "illegal raid."  
5 Some forms of this media, require specific devices or software to restore the work to a readable  
6 format, which are not readily available. At least one of these devices, that I kept over time, was  
7 seized and never returned to me by the FBI. The FBI's mishandling of this data and in some cases  
8 destruction of the data make it difficult to gather the information necessary to reconstruct the work  
9 product to the point in time it was made.

10 9. I was careful to maintain my work product in an organized fashion to insure I could  
11 reconstruct my work product to the point in time it was developed. From my perspective, the FBI  
12 destroyed that organization on February 28, 2006 and March 3, 2006, when they ravaged through  
13 the containers of my work product located in both my home and storage facility. While some effort  
14 may have been made, at least superficially, to keep track of what was searched and seized, the FBI  
15 did not seem to take any care to insure that my organization was maintained. They damaged, and  
16 in some cases destroyed my property as they conducted their search and seizure, which a federal  
17 magistrate and district judge subsequently ruled was illegal.

18 10. On information and belief it appears clear that the FBI has taken some of my  
19 "intellectual property" and to this day has never returned it. This can be shown by discrepancies  
20 between the FBI inventory seizure list and the FBI return lists. There are errors and omissions that  
21 have not been explained or resolved to this day. Without knowing exactly what data was kept by  
22 the FBI, to the extent it would ever acknowledge that some data was in fact retained, it makes it  
23 impossible to ultimately determine how the reconstruction of the work product can be determined,  
24 if it can be done at all.

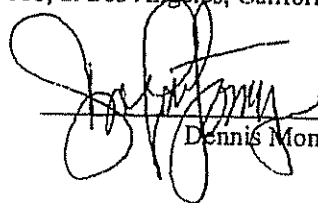
25 11. Even if I could locate all of the individual software compression files that I had as of  
26 September 1998, I could not reconstruct CD No. 1 without actually reviewing the files, which, as  
27 explained above, is not technically feasible. I cannot in good faith provide a reasonable estimate of  
28 the amount of time it would take me to review these files, because, among other things, I do not

1 have an independent recollection of exactly what is on the disks that I have maintained over the  
2 past 25 years.

3 I declare under penalty of perjury under the laws of the United States of America that the  
4 foregoing is true and correct

5 Executed on this 10 day of March, 2008, at Los Angeles, California.

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Dennis Montgomery

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of the LAW OFFICES OF LINER YANKELEVITZ SUNSHINE & REGENSTREIF LLP, and that on March 10, 2008, I caused to be served the within document described as **DECLARATION OF DENNIS MONTGOMERY PER MINUTE ORDER OF FEBRUARY 21, 2008** on the interested parties in this action as stated below:

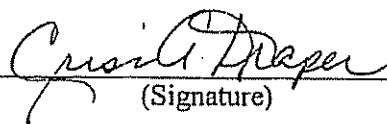
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Greg Addington, AUSA U.S. DEPARTMENT OF JUSTICE 100 W. Liberty Street, Suite 600 Reno, Nevada 89501 E-mail: <u>Greg.addington@usdoj.gov</u> (775) 784-5181 - FAX Attorneys for Department of Defense	Carlotta P. Wells, Sr Trial Counsel U.S. Dept. of Justice, Fed. Programs Branch Civil Division, Room 7150 20 Massachusetts Avenue, NW Post Office Box 883 Washington, D.C. 20044 (202) 514-4522; 616-8470 - FAX E-mail: <u>Carlotta.wells@usdoj.gov</u> Attorneys for Department of Defense
Raphael O. Gomez, Esq., Sr. Trial Counsel U.S. Dept. of Justice, Fed. Programs Branch Civil Division, Room 6144 20 Massachusetts Avenue, NW Post Office Box 883 Washington, D.C. 20044 (202) 514-1318; 616-8470 - FAX E-mail: <u>raphael.gomez@usdoj.gov</u> Attorneys for Department of Defense	

☒ **[ELECTRONIC]** By filing the document(s) electronically with the U.S. District Court and therefore the court's computer system has electronically delivered a copy of the foregoing document(s) to the persons listed above at their respective email address.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct

Executed on March 10, 2008, at Los Angeles, California

Criss A. Draper  
(Type or print name)

  
(Signature)

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of the LAW OFFICES OF LINER YANKELEVITZ SUNSHINE & REGENSTREIF LLP, and that on March 11, 2008, I caused to be served the within document described as **NOTICE OF ERRATA RE: ERRONEOUS FILING OF "DECLARATION OF DENNIS MONTGOMERY PER MINUTE ORDER OF FEBRUARY 21, 2008" AS ATTACHMENT TO DOCUMENT 466** on the interested parties in this action as stated below:

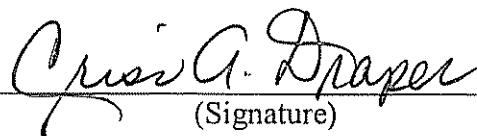
J. Stephen Peek, Esq. Jerry M. Snyder, Esq. Hale Lane Peek Dennison and Howard 5441 Kietzke Lane Second Floor Reno, Nevada 89511 (775) 327-3000; 786-6179 - FAX speek@halelane.com; jsnyder@halelane.com Attorneys for eTreppid and Warren Trepp	Reid H. Weingarten, Esq. Brian M. Heberlig, Esq. Robert A. Ayers, Esq. Steptoe & Johnson, LLP 1330 Connecticut Avenue, N.W. Washington, D.C. 20036-1795 (202) 429-3000; (202) 429-3902 - FAX rweingarten@steptoe.com; bhaberlig@steptoe.com; rayers@steptoe.com Attorneys for eTreppid and Warren Trepp
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Raphael O. Gomez, Esq., Sr. Trial Counsel U.S. Dept. of Justice, Fed. Programs Branch Civil Division, Room 6144 20 Massachusetts Avenue, NW Post Office Box 883 Washington, D.C. 20044 (202) 514-1318; 616-8470 - FAX E-mail: <a href="mailto:raphael.gomez@usdoj.gov">raphael.gomez@usdoj.gov</a> Attorneys for Department of Defense	

☒ **[ELECTRONIC]** By filing the document(s) electronically with the U.S. District Court and therefore the court's computer system has electronically delivered a copy of the foregoing document(s) to the persons listed above at their respective email address.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed on March 11, 2008, at Los Angeles, California

Criss A. Draper  
(Type or print name)

  
(Signature)